

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
~~OAKLAND DIVISION~~

|                           |   |                                    |
|---------------------------|---|------------------------------------|
| UNITED STATES OF AMERICA, | ) | No. CR 05-00611 WHA                |
|                           | ) |                                    |
| Plaintiff,                | ) | <del>[PROPOSED]</del> ORDER AS TO  |
|                           | ) | COMPETENCY HEARING, <i>FARETTA</i> |
| v.                        | ) | HEARING, SPEEDY TRIAL ACT, AND     |
|                           | ) | RELATED MATTERS                    |
| DALE SCOTT HEINEMAN,      | ) |                                    |
| KURT F. JOHNSON,          | ) |                                    |
| THE DOREAN GROUP,         | ) | <del>OAKLAND VENUE</del>           |
| WILIAM JULIAN,            | ) |                                    |
| FARREL J. LECOMPTE, JR.,  | ) |                                    |
| SARA J. MAGOON            | ) |                                    |
| a/k/a Credence, and       | ) |                                    |
| CHARLES DEWEY TOBIAS,     | ) |                                    |
|                           | ) |                                    |
| Defendants.               | ) |                                    |

Based upon the record made at the parties' appearance before this Court on May 9, 2006, IT IS HEREBY ORDERED that:

(1) a hearing pursuant to 18 U.S.C. § 4241(c) will be held on May 11, 2006 at 2:30 p.m. for James Misset, M.D.'s testimony regarding his reports provided to the Court pursuant to 18 U.S.C. § 4247(c) as to the competency of defendants Heineman and Johnson, respectively;

(2) the *Faretta* hearing as to defendants Heineman and Johnson is continued to May 11, 2006 at 2:30 p.m., if defendants Heineman and Johnson are each found competent by a

~~[PROPOSED]~~ ORDER

preponderance of the evidence pursuant to 18 U.S.C. § 4241(d);

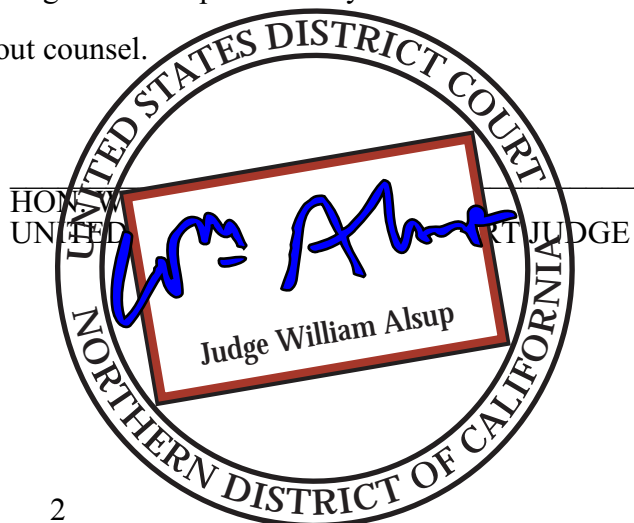
(3) defendants LeCompte and Tobias, and their respective counsel, are excused from the foregoing May 11, 2006 proceedings before this Court;

(4) the parties are scheduled to appear before this Court on June 13, 2006 at 2:00 p.m. for setting of motions schedule; and

(5) the time from May 9, 2006 to June 13, 2006 is excluded from the time within which trial must commence under the Speedy Trial Act, 18 U.S.C. § 3161 *et seq.*, on grounds of: (a) the need for effective preparation by counsel pursuant to 18 U.S.C. § 3161(h)(8)(b)(iv), taking into account the exercise of due diligence, to review tens of thousands of pages of discovery produced in electronic format; (b) a pending hearing under 18 U.S.C. § 4241(c) to determine the mental competency or physical capacity of defendants Heineman and Johnson, respectively, pursuant to 18 U.S.C. § 3161(h)(1)(A); (c) continuity of counsel, given that counsel for defendant LeCompte is unavailable the week of June 5, 2006; (d) the complexity of this case, wherein a 68-count indictment has been returned charging seven defendants with, *inter alia*, mail fraud, bank fraud, and conspiracy to commit mail fraud, wire fraud and bank fraud violations and more than 100,000 pages of discovery have been produced; and (e) the ends of justice are served and outweigh the best interest of the public and the defendants in a speedy trial by excluding this period of time under the Speedy Trial Act pursuant to 18 U.S.C. § 3161(h)(8)(A), for the reasons set forth above and for the continued *Faretta* hearing as to defendants Heineman and Johnson to determine whether they each understand their rights to be represented by counsel in this criminal proceeding and the risks of proceeding without counsel.

IT IS SO ORDERED.

Dated: May 11, 2006



~~[PROPOSED]~~ ORDER